UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1998/208
9 March 1998

ORIGINAL: ENGLISH

LETTER DATED 9 MARCH 1998 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to Security Council resolution 1154 (1998) of 2 March 1998, by which the Council endorsed (in para. 1) the Memorandum of Understanding which I signed with the Deputy Prime Minister of Iraq in Baghdad on 23 February 1998 (S/1998/166) and requested me (in para. 2) to report to the Council as soon as possible with regard to the finalization of procedures for presidential sites in consultation with the Executive Chairman of the United Nations Special Commission (UNSCOM) and the Director General of the International Atomic Energy Agency (IAEA).

The specific detailed procedures have now been established in accordance with paragraph 4 (b) of the Memorandum of Understanding and are transmitted herewith. I should appreciate it if you would bring the above to the attention of the members of the Council.

(Signed) Kofi A. ANNAN

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Annex

Procedures under paragraph 4 (b) of the Memorandum of Understanding between the United Nations and the Republic of Iraq of 23 February 1998

Introduction

1. On 23 February 1998, a Memorandum of Understanding was signed between the United Nations and the Republic of Iraq. In the Memorandum, the Government of Iraq, inter alia, reconfirmed its acceptance of all relevant resolutions of the Security Council, including resolutions 687 (1991) and 715 (1991). The Government of Iraq further reiterated its undertaking to cooperate fully with the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA). The Government of Iraq also undertook to accord to UNSCOM and IAEA immediate, unconditional and unrestricted access in conformity with all relevant resolutions.

2. For its part, the United Nations reiterated the commitment of all Member States to respect the sovereignty and territorial integrity of Iraq. In the performance of its mandate under the Security Council resolutions, UNSCOM undertook to respect Iraq's legitimate concerns relating to national security, sovereignty and dignity.

3. The Memorandum of Understanding contains specific provisions with respect to the eight presidential sites in Iraq. Special procedures shall apply to the initial and subsequent entries into those sites for the performance of mandated tasks. A Special Group shall be established by the Secretary-General of the United Nations in consultation with the Executive Chairman of UNSCOM and the Director General of IAEA. The Special Group shall comprise senior diplomats appointed by the Secretary-General and experts drawn from UNSCOM and IAEA. The Special Group shall be headed by a Commissioner appointed by the Secretary-General.

4. In carrying out its work, the Special Group shall, according to the Memorandum of Understanding, operate under the established procedures of UNSCOM and IAEA together with specific detailed procedures given the special nature of the presidential sites, in accordance with the relevant resolutions of the Security Council.

5. The present text constitutes those specific detailed procedures. They are drawn up by the Secretary-General under the authority of the Memorandum of Understanding.

Composition of the Special Group

6. The Special Group shall comprise senior diplomats, in the capacity of observers, appointed by the Secretary-General of the United Nations and experts drawn from UNSCOM and IAEA in the number deemed appropriate by the Executive Chairman of UNSCOM and the Director General of IAEA.

Teams of the Special Group

7. When it is determined in accordance with paragraph 13 below that there is a need to carry out mandated tasks[1] at a presidential site, a team shall be constituted from the Special Group.

8. The expert members of the team shall be designated by the Executive Chairman of UNSCOM and/or the Director General of IAEA having regard to the nature of the tasks to be performed. The Commissioner shall designate the senior diplomatic representatives from among those appointed by the Secretary-General, in no case less than two, to accompany the team.

9. The Executive Chairman of UNSCOM and/or the Director General of IAEA shall designate the Head of the team.

10. The team may be divided into sub-teams for the performance of specific tasks, if the Head of the team so decides.

Functions of senior diplomats

11. The functions of the senior diplomats shall be:

(a) To observe that the provisions of the Memorandum of Understanding and the present specific detailed procedures are being implemented in good faith;

(b) To report on any matter they deem appropriate to the functions of the diplomatic observers, in accordance with paragraphs 19 and 20 below.

Functions of UNSCOM/IAEA experts

12. The functions of the experts drawn from UNSCOM and IAEA who participate in any team constituted from the Special Group shall be as already established under their respective procedures.

Determination of the need for entry into a presidential site

13. The Executive Chairman of UNSCOM and/or the Director General of IAEA shall determine the need, in each instance, for the performance of mandated tasks within a presidential site.

Determination of the time and date for entry into a presidential site

14. The Executive Chairman of UNSCOM and/or the Director General of IAEA shall determine the date and time for entry and shall so advise the Commissioner.

15. At a time determined by the Executive Chairman of UNSCOM and/or the Director General of IAEA, the Government of Iraq shall receive a notification from the Commissioner, or his designee, of the intention to undertake mandated tasks within a presidential site. This notification shall indicate the number of persons comprising the team who will participate, including the number of diplomatic representatives accompanying the team.

The rights of the Special Group

16. The rights of the Special Group and its teams in the conduct of their work shall be those provided for in the relevant resolutions of the Security Council; in the exchange of letters of May 1991 between the Secretary-General of the United Nations and the Minister for Foreign Affairs of Iraq regarding the status, privileges and immunities of the Special Commission, applicable mutatis mutandis to IAEA; and in the plans for ongoing monitoring and verification approved under Security Council resolution 715 (1991).

Special considerations

17. Upon entry into a presidential site, the team shall conduct itself in a manner consonant with the nature of the site. It shall take into consideration any observations the Iraqi representative may wish to make regarding entry into a particular structure and then decide upon the appropriate course of action. This shall not, however, impede the ability of the team to fulfil its tasks as mandated under the relevant Security Council resolutions.

Reporting

18. The report called for under paragraph 4 (c) of the Memorandum of Understanding, prepared by the Commissioner appointed by the Secretary-General, shall be submitted by the Executive Chairman of UNSCOM to the Security Council through the Secretary-General.

19. The senior diplomats may report directly to the Commissioner on any matter relevant to their functions.

20. The Commissioner will discuss with the Executive Chairman of UNSCOM and/or the Director General of IAEA any observations made by the senior diplomats, including any matters arising from such observations that should be conveyed to the competent Iraqi authorities. If he deems it necessary, the Commissioner may also report any matter arising out of the work of the senior diplomats to the Secretary-General and advise the Executive Chairman of UNSCOM and the Director General of IAEA accordingly.

Revisions

21. These specific detailed procedures may be revised from time to time in the light of experience in their implementation.

Notes

[1] Mandated tasks under the Security Council resolutions include those in section C of Security Council resolution 687 (1991); paragraph 3 of Security Council resolution 707 (1991); the plans for ongoing monitoring and verification approved by the Security Council in resolution 715 (1991); and the export/import regime approved by the Security Council in its resolution 1051 (1996).